

WASHINGTON TERRACE CITY
ORDINANCE 19-01
NUISANCE ORDINANCE AMENDED

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH,
AMENDING CHAPTER 8.16 OF THE WASHINGTON TERRACE
MUNICIPAL CODE RELATING TO THE NUISANCE ORDINANCE;
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Washington Terrace City (hereafter referred to as “City”) is a municipal corporation, Duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* 10-8-840 and 10-8-60 authorizes the City to exercise certain police Powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, *Utah Code Annotated* 10-11-1, et seq., allows the City to regulate nuisances;

WHEREAS, after publication of the required notice, the Planning Commission held its public hearing on Feb. 28th, 2019, and subsequently gave its recommendation to Approve this Ordinance;

WHEREAS, the City Council received the recommendation from Planning Commission and held its public meeting on March 19, 2019, and desire to act on this Ordinance;

NOW THEREFORE, be it ordained by the City Council of Washington Terrace City as follows:

Section 1: Repealer. Any word, sentence, paragraph, or phrase inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: Amendment. Chapter 8.16 of the *Washington Terrace Municipal Code* is hereby amended to read as follows:

Chapter 8.16
Inspection and Cleaning

8.16.010 Authority.

This Chapter is ~~known as~~ entitled “Inspection and Cleaning: and adopted as authorized by Utah Code Annotated 10-11-1, et seq., 1953 as amended. In accordance with Utah Code Annotated 10-8-60, the City hereby exercises its broad authority to declare what ~~shall be~~ constitutes nuisance, ~~and provide for the~~ abatement of the same, and impose fines upon any persons or other entity that who may create, continue, or suffer any nuisance to exist.

8.16.020 Definitions.

As used in this code, the following words mean:

1. "Abandoned" means a nuisance condition or nuisance object left or perceived to be left unattended, disused, discarded, discontinued for more than 10 days upon public or private property.
2. "Abate" or "abatement" means an action by the City to maintain neighborhoods by reducing blight and other unsafe conditions to correct or otherwise remedy to put an end to any condition that is declared a nuisance in this Chapter.
3. "Enforcement official" means a building inspector, code enforcement official, sheriff, or any other official designated by the city manager to provide enforcement of this Chapter
4. "Injurious" means whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance.
5. "Nuisance" means someone or something and/or condition that is causing a problem, is annoying and such conditions consist of but not limited to an unsightly or deleterious objects, structures, unsightly property, noxious environment and surrounding, trash, junk, refuse or garbage, anything rendering property and the soil, air, water, or food to be impure or harmful. Where the City has declared a nuisance using the broad nuisance declaration and powers set forth in the Utah Code Annotated 10-8-60.
6. "Nuisance vehicle" means any wrecked, obsolete, junked, inoperable, unregistered, or expired vehicle, or any such vehicle that exist within the city that is in violation of this chapter or any chapter within the City Municipal Code. It also includes any vehicle or part of a vehicle that is parked illegally on public property or the public right-of-way, in violation of land use regulations, not able to be driven legally based on any condition of status. It further includes any vehicle used for commercial purposes in a residential zone that is not actively going to or returning from a delivery in the City, or a vehicle used for commercial purposes where the owner of the vehicle does not have an approved commercial site plan and/or a business license within the City.
7. "Noxious weed" means vegetation that is determined by Weber County and the Utah State University (USU) Extension Services (specifically those designated in the most current edition of the : Noxious Weed Field Guide for Utah) to be environmentally invasive. Invasive noxious weeds have been described as a raging biological wildfire- out of control, spreading rapidly, and causing enormous economic losses. Millions of acres have been invaded or as risk of being invaded by weeds, including cropland, pastures, rangelands, forests, wilderness areas, national parks, recreation sites, wildlife management areas, transportation corridors, waterways, wetlands, parks, golf courses, even yards and gardens. Noxious weeds are capable of spreading at rates of up to 60% annually.
8. "Owner" means any person or entity that is the reputed owner of the premises, or the responsible party as provided by this Chapter.
9. "Property" means any real property, lot, parcel or plot of ground, whether occupied or not, and any premise including a building or structure, or the premises on which a building or structure is located, or undeveloped land.
10. "Refuse", "Junk", "Debris" or "Garbage" means useless, worthless or discarded materials, indoor household furniture or parts thereof left outdoors, used tires, parts of vehicles, unsightly machinery or equipment, unsightly appliances or parts of the appliances, trash, rubbish, grass and tree trimmings, rotting material or vegetation, litter, scrap building materials, food product waste, dead animals, and any similar material.

11. "Temporary permit" means temporary permit issued by the Utah Division of Motor Vehicles for a vehicle that is being repaired or restored to pass required state and county inspections or otherwise, must comply with any chapter within the City Municipal Code.
12. "Vehicle" means a motorized, non-motorized, or self-propelled device intended primarily for transportation, use and operation on a road or utility or recreation, or a device used in the transportation of any item from one location to another such as a trailer.
13. "Junk or Junkyard" means old or scrap copper, brass, rope, rags, batteries, plastic, paper, trash, rubber, waste, junked, dismantled, or wrecked automobiles or their parts, and iron, steel, and other old scrap ferrous or nonferrous material. It is considered a public nuisance to allow junk and/or salvage material, solid waste, and garbage or refuse to remain on any lot.

8.16.30 Duty to Maintain.

In accordance with Utah Code Annotated 10-11-2, all property owners, along with any agent, occupant, tenant, renter, or other person having control of real property shall have an affirmative duty to maintain their real property free and clear of any nuisance or nuisance activity as provided in this Chapter or any other Chapter in the Municipal Code. This affirmative duty shall deem all property owners, their agent(s), occupant(s), Tenant(s), renter(s), or other person having control of real property to be the responsible party for any nuisance and each shall be join and severally liable therefore for compliance to this Chapter for the abatement, removal, remedy, and/or other damages, including all fines and penalties that are incurred.

8.16.040 Nuisance Declared.

The following objects, acts, or conditions along with any resulting condition, are hereby declared to be nuisances in violation of this chapter and subject to the penalties provided herein:

1. Conditions that create the possibility of any fire hazard, including but not limited to:
 - a. Chemicals.
 - b. Dry grass, weeds, or vegetation.
 - c. Debris or junk of any kind.
 - d. Flammable materials, fibers, plastic, papers, or paper products, or wood storage.
 - e. Flammable junk, equipment, or parts.
2. Any material that is flammable which may pose a risk or hazard. Material is presumed flammable for this purpose of this Chapter if:
 - a. The material is known or regarded as flammable in any regulatory code.
 - b. The material is determined flammable by the Fire Marshall.
 - c. The material that contains any commonly regarded flammable properties.
 - d. The material is fibers, plastic, paper, or wood.
 - e. The material is oil or fuel of any kind, or that contains or may use oil or fuel of any kind.
3. Unlawful pollution or environmental degradation, or anything rendering the soil, air, water, or food to be impure or unwholesome.
4. Conditions that harbor or attract rodents, insects, disease, or other forms of life deleterious to human habitation.
5. Deleterious surroundings and structures in violation of local codes, including but not limited to:
 - a. Burned machinery.
 - b. Buildings and equipment which are obsolete or in disuse.
 - c. Parts of vehicles.
 - d. Unsecured vacant structures.
 - e. Inoperable equipment.

- f. Buildings in a state of general disrepair.
 - g. Objects with sharp or protruding edges.
 - h. Any structure which has become a fire hazard due to the accumulation of combustible materials.
 - i. Objects supported in such a manner as to be easily dislodged from the support.
 - j. Fences in a state of disrepair.
6. Allowing or causing injurious or harmful environment to retain, deposit, dump, burn, bury or allow or exist any unsightly or injurious objects, structures, junk, discarded or unused objects or equipment, nuisance vehicles, noxious weeds.
 7. Weeds, grass, vegetation over six (6) inches in growth, also to allow neglected landscaping, any dry or parched landscaping or lawn, failure to maintain and adequately water any lawn or landscaping, shall be a nuisance violation.
 8. To allow vegetation, waste, garbage, litter, filth, refuse, feces, or manure to accumulate within or upon any property, except where it is scheduled for immediate removal.
 9. To discharge any type of waste or dump liquid waste, hazardous waste, or refuse of any kind into any catch basin, street, road, sidewalk, gutter, stream, drain, pipe, wash, natural water course, ditch, canal, lot or on to any other property.
 10. To obstruct any watercourse, storm drain, or pipeline.
 11. To permit any garbage container to remain on a premise when it has become unclean, offensively putrescent, or overflowing.
 12. Failure to remove from the street or sidewalk a garbage or recycling container within 24 hours of pick-up, and placement of such containers in the side or rear yard area.
 13. Any condition or object that shall cause immediate and irreparable harm to a person or endanger the public health and safety of any resident and or person shall be rectified immediately.
 14. The accumulation of animal waste products shall be picked up and disposed of in appropriate manner and or in a container.
 15. Any unkempt, offensively putrescent, or filthy stable, stall, corral, feed yard, or in any other structure or area where animals are kept. Other property kept unclean, contributing to a health hazard or an environment for invasive animal or vegetation.
 16. Allow to be kept or collected any putrid grease, vegetable matter, rotting substance, or other similar matter on any premise.
 17. Illegal dumping, disposal, or handling of grease, oils, fats, or substance in any manner that may result in any pollution, clog, or damage to any sewer system, storm water system, or the environment.
 18. To create or have or permit upon any condition that creates unnecessary stagnant water, or unnecessarily fosters flies, mosquitos, or rodents.
 19. To pollute or render or contaminate water in any spring, stream, well, or other water supply. Including any action or inaction that may jeopardize or harm a public or private water system, including a drinking fountain.
 20. Create or allow a condition or object that may detrimentally affect any sanitary sewer line or system, septic system, or other waste collection system. Including any action or inaction by an owner that may result in any overflow, system failure, or other potential public or environmental hazard relating to sewer.
 21. To allow any resident or property to hold any decaying material, hazardous material, explosives, or offensive substances.
 22. To plant or maintain any tree or vegetation that may enter or damage any storm drain, filed or land drain, or sewer systems, or cause heaving or other damage to any sidewalks, curbs, gutters,

- or streets; including but not limited to: overhanging trees, branches, or vegetation in violation of the Manual on Uniform Traffic Control Devices (MUTCD), American Association of State Highway and Transportation Officials (AASHTO) standards, or other applicable code, specifically those requirements in Section 17.44.200 and Section 8.16.035.
23. To plant or maintain trees or vegetation which obstruct the clear view of traffic, traffic signs, fire hydrants, utilities, public right of ways, sidewalks, curbs and intersection corner property sight triangles specified in the land use ordinance in accordance with Section 17.44.080 and Chapter 17.44.130
 24. To fail to properly keep adjoining public sidewalks clear of snow and any other obstruction.
 25. To put or cause to have put snow, ice, leaves, litter, dirt, debris, or other refuse into the public right of way, streets, curbs, gutters, or catch basins.
 26. To operate a business within the city without obtaining the appropriate City business license, along with any required stated license and tax identification numbers, along with compliance with Title 5 of the municipal code.
 27. Failure to control and prevent back flow and eliminate and avoid any cross connections between any auxiliary water source and the city's culinary water systems or the resident's culinary water system.
 28. Failure to install, maintain, control, back-flow devices for any sewer and/or water system.
 29. Failure to correct or repair immediately and stop and repair any culinary water, secondary water, or sewer line break and or leak.
 30. Leaving fuel, flammable material, or similar material open and accessible to children or creating an attractive nuisance condition.
 31. Failure to park any vehicles, motor homes, fifth wheel trailer, water craft, recreational vehicle, and axle driven devices on a solid surface type material such as asphalt or concrete as per the municipal code. The solid surface area must also cover the full size of the vehicle or any of the other above mentioned objects where such items are parked. Nuisance items under this part are exempt where granted a winter parking exemption in the municipal code under Section 10.16.030 so long as the required spring restoration of the soft surface is completed as provided in the municipal code. Failure to make spring restorations of soft surface under this part is a nuisance violation under this Chapter. Gravel is not an acceptable parking surface or considered a solid surface.
 32. Failure to park or place any vehicle, trailer, or equipment at least three (3) feet behind the sidewalk and nine (9) feet behind curb where no sidewalk exists.
 33. Failure to install or maintain any toilet, sink, plumbing, or sewer facility in accordance with the applicable international building codes, or regulations of the Weber-Morgan Health Department.
 34. Failure to comply with the "Property Maintenance Code", which regulates the condition and maintenance of all property, buildings and structures, such as fences, roofs, siding, and otherwise.
 35. Any construction activities on any property without proper permits.
 36. Allowing or keeping any abandoned appliances, furniture, furnishings, or containers outside on any property shall be a nuisance violation and shall be removed from the premises.
 37. Keeping any appliance or device accessible to children that may be airtight and contain a lid, lock, or door device which may not be released from the inside, including but not limited to: refrigerators, freezer, or like appliances or containers. Any appliances or devices in violation shall be discarded or removed from the property and appropriately disposed.
 38. Failure to keep or maintain landscaping or storm water basin required on an approved site plan.
 39. Parking any motor home, fifth wheel, trailer, water craft, or recreational vehicle on any property and being used for residential purposes for more than forty eight (48) hours. Any such vehicle

- described in this part may park on the public right of way not more than seventy two (72) hours for loading and unloading and or should not be parked within three (3) feet of the sidewalk.
40. To allow any basketball standard, other recreation device, or equipment of any kind to obstruct or interfere with any street, sidewalk, curb, or gutter.
 41. To hold, park, keep, operate, maintain, or keep any nuisance vehicle or abandoned vehicle ~~where there is no valid temporary permit, as set forth in Section 8.16.020.~~
 42. Burning of any kind without a valid burn permit.
 43. To permit or cause to keep, deposit, dump, bury, or allow to exist any unsightly or injurious objects, structure, junk, discarded or unused objects or equipment, equipment, noxious weed, ~~grass over six inches in height.~~
 44. It is a violation of “Chapter 10.12 Parking Regulations” for parking or keeping any commercial vehicle or commercial activity in a residential zone or without a valid site plan in a commercial zone. Shall not be parked in residential zone within the city, unless for loading and unloading purpose.
 45. Operating a business without a valid business license, in compliance with Chapter 5.02.10.
 46. Overnight parking of any commercial vehicle shall comply with Chapter 10.12 Parking Regulations over 10,000 gross vehicle weight.
 47. Any parking on any city street, sidewalk, or public property, unless designated for parking in accordance with City code for the appropriate vehicle and weight class of vehicle.
 48. Keeping or harboring excessive animals, stray animals, or any animals in violation of any ~~the municipal code~~ or Title 6 Animals.
 49. Overnight parking of any vehicle, trailer, or similar devices on any ~~municipal~~ public property, park area, or at any park parking lot. Any illegally parked vehicle is subject to being towed. Any other activity in violation of Section 12.06.040 of the municipal code.
 50. Failure to keep or maintain landscaping in accordance with Section 17.44.200(f).
 51. Lawn care and landscaping maintenance that is not properly maintained, including but not limited to; the keeping those areas watered, green, clean, attractive, healthy, fertilized, mowed, trimmed and edged turf areas, proper sprinklers with adequate installation, properly sod areas or replanting as needed for maintenance of the approved landscape plan. Watering of landscaped areas shall be measured by a test where there is water irrigated to an overall average depth of three (3) inches to the soil. Anything less than three (3) inches shall be considered improper watering.

8.16.050 ~~Unwanted Nuisance Trees.~~

The following conditions concerning trees are hereby declared to be unlawful and a public nuisance. It shall be unlawful for the owner, occupant or a person in control of any property in the City to plant, maintain or permit the public nuisance described below to exist on said property and/or within the parking strip abutting such property.

1. Any tree that impacts or that encroaches onto neighboring property, over or through a fence, or that lifts, cracks, or otherwise impairs, impedes, or damages any curb, gutter, drive approach, or sidewalk shall, should immediately removed, cut, or trimmed, and/or maintained, and any and all to prevent damage shall be responsibly repaired.
2. Any tree designated as an unwanted tree as listed in this ordinance and in either a commercial or a residential area should not be planed or may be required to be removed, if the tree has a destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of healthy trees, shrubs or plants in the city, or which is capable of causing an epidemic spread of a communicable disease, example: such as Dutch Elm disease or insect infestation, or gypsy moth.

3. If the tree is hazardous, dead, decayed overgrown and/or uncultivated or not maintained which may become a hazard to any structure and/or a fire hazard or danger to surrounding area, or which is likely to harbor rates, vermin or other pests or insects.
4. Any nuisance trees that contributes to neighboring property by the way of suckers growing and or having an invasive root system and or with intrusive seedlings, should not be planted and may be required to be removed or cut down. It is the responsibility of the property owner to remove a tree that contributes to any of the above violations.
5. The following list of trees are considered a nuisance which are ~~unwanted trees are as follows, these trees may be~~ required to be removed or cut down:
 - a. Tree of heaven
 - b. Black locust trees
 - c. Siberian elm
 - d. Russian olive tree
 - e. Mimosa (albizia julibrissin)
 - f. White mulberry(Morus alba)
 - g. Hackberry (Celtis occidentalis)
 - h. Eastern cottonwood (Populus deltoids)
 - i. Bradford pear (Pyrus calleryanna Bradford)
 - j. Chinese flame tree (aka bougainvillea goldenrain tree)
 - k. Ginkgo tree
 - l. Sweet gum tree
 - m. American elm (Ulmus Americana)
 - n. Idaho locust (Robinia x Ambugua)
 - o. Burch (Betula)
 - p. Eucalyptus tree

8.16.060 Accumulation Prohibited and Garbage Containers

1. Accumulation Prohibited. It is unlawful and a violation of this Chapter for the owner or occupant of real property or estate, or its agent, to cause or permit upon such property, or right of way adjacent thereto, the accumulation of, or, after notice as provided in this chapter, to fail to eradicate or remove garbage; refuse; abandoned vehicles or inoperable vehicles, boats, or trailers; or any unsightly or deleterious objects or structures.
2. Garbage Containers. No person who owns, or has possession, control or custody of any garbage or recyclable container(s), shall be allowed or permitted to leave a container out 24 hours prior to the garbage pick-up date and must be removed from the roadway, street, parking areas, no later than 24 hours after the day of collection. Any person who violates this sub-section is guilty of an infraction and may be fined \$10.00 per offense. Each day a violation continues constitutes a separate offense.

8.16.070 Administration and Enforcement

1. Administration. The enforcement official administers this Chapter
2. Powers and Duties. The enforcement official is authorized to:
 - a. Inspect real property within the city to determine whether such constitute a nuisance as provided in this chapter.
 - b. Follow the procedure in Utah Code Annotated 10-11-1, et seq., for inspection, cleaning, nuisance abatement, and cost recovery
 - c. Ascertain the names of the owner(s) or occupant(s) of property where a nuisance exists.

- d. Serve notice, in writing, upon the ascertained owner(s) or occupant(s) or other responsible persons, etc. either:
 - i. In person or posted on site by mail (certified mail if required by state law) to the property owner of record as described in Utah Code Annotated 10-11-2(2)(a)(i) if mailed to the last known address of the owner according to the records of the county recorder; or
 - ii. In person or posted on site or by mail (certified mail if required by state law) to a non-owner occupant or another person responsible for the property who is not the owner of record as described in Utah Code Annotated 10-11-2(2)(a)(i) if mailed to the property address.
3. In the written notice described in Utah Code Annotated 10-11-2(20)(a)(i), the municipal inspector shall:
 - a. Identify the property owner of record according to the records of the county recorder.
 - b. Describe the property and the nature and results of the examination and investigation conducted in accordance with Utah Code Annotated 10-11-2(1)(a); and
 - c. Require the property owner, occupant, or, if applicable, another person responsible for the property to:
 - i. Eradicate or destroy and remove any identified item examined and investigated under Utah Code Annotated 10-11-2(1)(a); and
 - ii. Comply with Utah Code Annotated 10-11-2(2)(c)(iii)(A) in a time period designated by the municipal inspector but no less than 10 days after the day on which notice delivered in person or post marked.
 - d. For a notice of injurious and noxious weeds described in Utah Code Annotated 10-11-2(2)(a)(i), the enforcement official is not required to make more than one (1) notice for each annual season of weed growth for weeds growing on a property.
 - e. The municipal inspector shall serve the notice required under Utah Code Annotated 10-11-2(2)(a)(i) under penalty of perjury.
4. Notice should indicate a statement informing the party of their right to appeal and any civil fines or criminal penalties that may be imposed.
5. Notice may state alternative remedies as appropriate.
6. Proof of service may be required for cost recovery from the county treasurer, any court, or otherwise.
7. Eradicate and remove objects in violation of this chapter, impose fines, initiate suit, or seek other remedies allowed by law, and/or assess costs in accordance with Utah Code Annotated 10-11-3 and 10-11-4.

8.16.080 Appeal

The owner(s) or occupant(s) who receives a notice under this chapter may file a written appeal with the city recorder within ten (10) days from being serviced by mail or otherwise, or within ten (10) days of any written final decision or fine of an enforcement official. All appeals are held before the appeal authority and governed in accordance with the procedure set forth in the municipal code. Failure to make timely appeal forfeits rights associated with the same and serves as cause for dismissal of any adverse action against the city by an aggrieved party or any party withstanding.

8.16.090 Eradication and Removal by City Municipality.

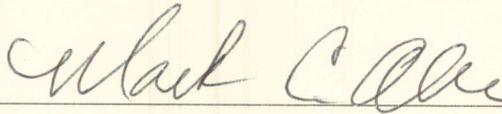
If the owner(s) or occupant(s) of the property described in the written notice given in accordance with this Chapter, including any decision from an appeal related to the same, fail to conform to the requirements

relating to the eradication and removal of any objects determine to be in violation of this chapter, the City Manager, or his designee, may employ all necessary assistance to cause such materials or conditions to be abated or eradicated and removed from the property and the City may recover the cost for the same from the property owner.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

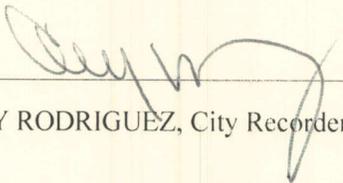
Section 4: Effective date. This Ordinance shall be effective immediately upon posting or publication after final passage.

ADOPTED AND APPROVED on this 19 day of March, 2019.



MARK C. ALLEN, Mayor,
Washington Terrace City

ATTEST:



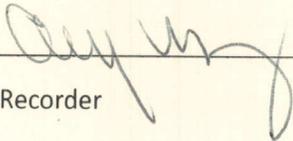
AMY RODRIGUEZ, City Recorder

RECORDED this 19 day of March, 2019.

PUBLISHED OR POSTED this 20 day of March, 2019.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington Terrace City, hereby certify that foregoing Ordinance was duly passed and published, or posted at 1) city website 2) city hall and 3) Senior/council on the above referenced dates.

 _____ DATE: 3-19-19

City Recorder